14.

A

Sober Enquiry,

Whether it be Lawful for

SUBJECTS

WITHOUT

ROYAL AUTHORITY

To take up

ARMS

IN

DEFENCE

OF THE

Protestant Religion,

To Prevent

POPERY.

LONDON:
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To the most Noble Colonel, Colonel *EDWARD MANSEL*, one of the worthy Members of the most Honourable and Loyal SOCIETY at the *White Horse Tavern* in *Fullers-Rents* near *Greys-Inn*.

SIR,

AS *the over-flowing of* Nilus *doth continually leave many Seeds and Spawns of Monsters behind it, so the late Inundation of Schism in this Nation, hath left many prodigious and monstrous Principles with us; amongst the rest, That it's lawful for Subjects to take up Arms against their Prince in Defence of Religion, or to prevent Popery. And this Doctrine I must tell you, Sir, is become so Epidemical, that many of the Religionists have adopted it into the Family of their Faith. I have here* in transitu, tanquam Viator Hermulas, *made some Reflections upon their pernicious* Theorem: *The Colours, I must confess, are laid in Water, but some better Artists hereafter may lay them in Oyl. Howsoever I do appeal to your Noble self, whose single Opinion (in point of Loyalty) I more value, than the Judgment of the most advanced Heads. I know, Sir, you carry an Antidote in your Ears, and a Counterpest in your Breast, against the Poison and Contagion of these Principles. Your innate Loyalty hath taught you even from your Cradle to bear Arms in defence of your Prince.*

I am ſure your Religion (which you profeſs) cannot ſuffer you to take up Arms againſt your Soveraign; the firſt hath made you gracious to your Prince, the other Renowned to all Poſterity.; your Piety hath ſignallized your Loyalty, and both have rendred you Illuſtrious. Sir, with much Humility I beg your Pardon, and do reſt

Your moſt Faithful,

moſt Obedient Servant

and Countryman,

Ap William, d' Bretaine.

SIR,

SIR,

IN Obedience to your Commands, I have read, and soberly considered the Papers, which you were pleased to send unto me. The Discourse is strong and Masculine; but I must beg your Pardon, if I cannot obtain so much favour of my Reason as to agree with you, That it's Lawful for Subjects in a Monarchical State, as *England* is, to take up Arms for Religion, or in defence of it, without warrant and Authority from the King.

Sir, this Assertion of yours is so horrid and pernitious in consequence, and so fatal to all Kings and Princes, and to Religion it self, that I must tell you, it's,

1. Contrary to the Doctrine delivered to us in the sacred Scriptures.
2. Contrary to the Laws of this Kingdom.
3. Against the Judgment of the most Pious and Learned men in all Ages.

1. It's contrary to the Doctrine delivered in the Scriptures, which teach us, the Sword belongeth only to the King, and to them that are sent by him, *Rom.* 13. 1 *Pet. chap.* 6. *ver.* 13, 14. *And that we should be subject, not only for Wrath, but also for Conscience-sake, because the Powers that be, are ordained of God; whosoever therefore*, saith St. *Paul, resisteth the Power, resisteth the Ordinance of God; and they which resist, shall receive to themselves Damnation.* In the words of St. *Paul* there is a remarkable Opposition between Subjection and Resistance; ὑποτάστεσθαι, and ἀντιτάστεσθαι, implying, that all military τάξις, whether Defensive or Offensive, if it be against the Superior Power, which

God hath ſet over us, is forbidden. But this hath been ſo excellently diſcourſed of by many learned perſons, that I ſhall not give you further Trouble herein; yet there is one Objection which you make your *Achilles*, which I ſhall endeavour to anſwer, and that is 1 *Pet. c.* 2. *v.* 13. *Submit your ſelves unto every Ordinance of man, whether it be to the King, as Supreme:* from whence you conclude, that the King is the Ordinance of man, and deriveth his power from the People, and in caſe of breach of Truſt, its lawful for them to take up Arms againſt him.

Anſ. 1. The Original is ὑποτάγητε πάσῃ ἀνθρωπίνῃ κτίσει, &c. *Submit*, or *be ſubordinate to every Ordinance amongſt men*, &c. For Ajectives in (τος) do not denote efficiency in the Subject, but its paſſivitive; ſo that it's not meant of any Ordinance created by man, but eſtabliſhed in, or amongſt men.

2. There is a ſignal Character in that very Text, that keeps it from concluding the Supreme Power to be Originally in the People, not only by calling the King Supreme, ſuch as in St. *Pauls* Divinity, *Rom.* 13. are affirmed to be ordained of God, and ſo no human Ordinance: but alſo by diſtinguiſhing the Governours, *v.* 14. from the King or Supreme, *v.* 13. by this, that the Governours are ſent by (*i.e.* have Commiſſion from) the King; which might in the like manner be alſo affirmed of the King, that he were ſent by the people, if he were the Creature or Creation of them, but is not ſo much as intimated by the Apoſtle: But on the contrary, Supremacy affixt to him, and Subjection to be paid to him (not for the people, but *for the Lords ſake*) as Subordination to, and Miſſion from the King, is affirmed of all other Magiſtrates.

3. It's contrary to the Laws of this Kingdom for Subjects to take up Arms upon any pretence whatſoever, without Warrant and Authority of the King.

1. Becauſe the King is the only and Supreme Governour in all Caſes, 1 *Eliz. c.* 1. 5 *Eliz. c.* 1.

2. The King is an abſolute Monarch, *lib.* 5. *de Jure Regis Eccleſiaſtico*, *Caſſannus in Catal. Glor. Mundi.*

3. The

3. The Kings Crown is an Emperial Crown, 28 *H.* 8. *c.* 7. 1 *Eliz. c.* 1. 1 *Jacob. c.* 1.

If ſo, then the Supreme Power is in the King, and by conſequence the ſole power of making war is in him.

In the Parliament 7 *E.* 1. it was declared by the Prelates, Earls, Barons, and Commonalty of the Realm, That it belongeth to the King and his Royal Seignory ſtrictly to defend force of Armour, and all other force againſt the Kings Peace where it ſhall pleaſe him, and to puniſh them that ſhall do contrary to the Law and Uſage of the Realm, and hereunto they are bound to aid their Soveraign Lord at all ſeaſons, when need ſhall be; *Old Mag. Char. fol.* 156. *Lamb. fol.* 135. *Inſt. par.* 1. *fol.* 75.

All Commiſſions to levy men for the War, are awarded by the King, 4 & 5 *Philip & Mary c.* 3.

His Majeſties Subjects, according to their bounden Duties, ought to ſerve the King in his Wars, 2 & 3 *E.* 6. *c.* 2. 11 *H.* 7. *c.* 1. *lib.* 7. *Calvins Caſe.*

The people without the King, cannot make a War, but the King without the people can; 19 *E.* 4. 6. *Fitz. Abridg. Tit. Juriſdiction plac. ultimo.*

The King ows a Protection to his people, and is the Conſervator of the Law, 8 *H.* 7. *fol.* 1. If the King hath not *Jus gladii*, how can he protect the Laws, or his People? If there ſhould be an Invaſion *ab extra*, or an Inſurrection *ad intra* in this Kingdom, if the *Jus gladii* were not in the King, who ſhould defend the Kingdom? If it be in the people (as you would have it) then all have an equal Right to command, and ſo for want of a good accord amongſt them (as they will rarely agree to reaſon) the Kingdom would be loſt.

Therefore the *Poſſe Regni* by the Laws and Conſtitutions of this Kingdom, doth ſolely belong unto the King, *F. N. B.* 113. *Glanvil lib.* 1. *c.* 2. *lib.* 14. *c.* 1. *Bracton lib.* 3. *fol.* 118. and by the Statutes of 13 *Car.* 2. *c.* 6. 14 *Car.* 2. *c.* 3. the *Jus gladii* is ſetled, and declared to be ſolely in the King.

Therefore if Subjects, upon any pretence whatſoever, ſhall take up Arms, without the Authority of the King, it's

high Treason by the Common Law, and by the Statute, 25 *E.* 3. for they usurp Royal Authority, and it's a Machination and Compassing of the Kings Death, and a levying of War against his sacred Person and Authority.

It was resolved by all the Judges of *England* in the reign of *Henry* the Eight, That an Insurrection against the Statute of Labourers for the inhansing of Sallaries and Wages, was a levying of War against the King, because it was against the King and his Laws, and so in destruction of the King; and for that the Offenders took upon them the Reformation thereof, which Subjects by gathering of power ought not to do; *Inst. part.* 3. *fol.* 10. The Imperial Law doth assert the same: *Ad Legem Ju. Majestatis Leg* 3. *eadem lege tenetur, & qui injussu Principis bellum gesserit, detectum habuerit, exercitum comparaverit*, its Treason without the Command of the Prince, to make War, levy men, or raise an Army. And *Codex armorum usus inscio Principe interdictus est: Nulli prorsus nobis inscitiis atque inconsultis quorumlibet armorum movendorum copia tribuatur*; It's not lawful for any, without our Authority, to take up Arms. These are the words of the Emperors, *Valentinian* and *Valens*, and *Codex de re militari, Leg.* 13. *Nemo miles: Nemo miles vel sibi vacet, vel aliena obsequia sine nutu Principali peragere audeat.* And *Bodin* doth tell us the same *de Repub. lib.* 1. *c.* 10. *n.* 155, 156. *fol.* 244. *Edit. Latin.* Ursell. *Anno* 1601.

2. It's not lawful for Subjects in the Realm of *England* to take up Arms for Religion, either to reform it, or to take away that established, or to introduce a new one without Warrant or Authority of the King. Because,

1. The King is the Supreme Head of the Church of *England*, 26. *H.* 8. *c.* 1. 2 *E.* 6. *c.* 2. And at a Convocation holden *Anno* 22 *H.* 8. by a publick Instrument made by all the Bishops and whole Clergy of *England*, the King was acknowledged to be Supreme Head of the Church of *England*; *Inst. part.* 3. *fol.* 121.

2. All Ecclesiastical Authority and Jurisdiction in this Kingdom are originally derived from the King, *lib.* 5. *De Jure Regis Ecclesiastico*; he hath power within his Dominions to declare what are Articles of Faith, according to Scripturre,

Scriptrue, to make Laws for the Government of the Church, to appoint forms of Worſhip and Diſcipline; and he hath power to make Orders and Conſtitutions for the Government of the Clergy, as it was reſolved by all the Judges of *England*, 2 *Feb.* 2 *Jac. Croke part* 2. *fol.* 37. *Moors Rep.* 755. And theſe Rights and powers of the King are inherent in him, as Eſſential Flowers of the Crown, and as ancient as the Crown it ſelf.

For Subjects to raiſe Arms in oppoſition of any of theſe Powers, or againſt the Laws and Conſtitutions to that purpoſe by the King made, it's High Treaſon within the Statute of 25 *E.* 3. for the Church and Common-wealth make but one Monarchy; therefore they which take up Arms againſt the Eccleſiaſtical Power of the King, take up Arms againſt the Monarchy, and ſo againſt the Monarch. And I muſt tell, you, Sir, That originally there was no difference between Church and State, as to Juriſdiction, until Chriſtian Monarchs divided Juriſdictions, and delegated Civil and Eccleſiaſtical perſons to take Conuſance, and judge of Cauſes ſeparate: And thoſe Juriſdictions are called Civil and Eccleſiaſtical, in reſpect of the Delegates only, and not in reſpect of the Caſes whereof they take Conuſance, and judge. And the ſame perſons which *ratione Ligeantiæ*, are Members of the Common-wealth, *ratione Fidei*, are Members of the Church.

Sir *Edward Coke* (that great Oracle of the Law) ſaith, If Subjects take up Arms, to alter Religion eſtabliſhed within the Realm, or the Laws, or to any other end, pretending Reformation of their own heads, without Authority from the King, this is a levying of War againſt the King; becauſe they take upon them Royal Authority, which is againſt the King, and *per* Conſequence it's High Treaſon, *Inſt. part.* 3. *fol.* 9.

Sir *John Oldcaſtle* of *Cowling* in the County of *Kent*, in Parliament was adjudged a Traytor, for that he and others to the number of twenty men called *Lollards*, did conſpire to ſubvert the State of the Clergy, *Rot. part.* 5 *H.* 5. *n.* 11.

In Queen *Maries* time Sir *Nicholas Throgmorton* conspired with Sir *Thomas Wyat* to levy War within the Realm for alteration in Religion; he joyned not with him in the execution of this Conspiracy, yet both adjudged Traytors by the Common Law, before the Declaration of the Stat. 25. *E.* 3. *Dy fol.* 98.

1 *Jac.* The Lord *Gray* and other Conspirators met, and conspired to make an Insurrection, whereby they designed to seise the King into their power, until he should grant them a Pardon of all Treasons, a Tolleration of the Exercise of the Popish Religion, *&c.* They were indicted for Compassing the Kings Death; the Lord *Gray* was tryed by his Peers, and had Judgment to be drawn, hang'd and quarter'd.

In the Fifthty first of *Henry* the third, it was declared by Parliament, that for Subjects to associate or enter into any Covenant to reform Church or State, without the consent of the King, was High Treason by the Fundamental Laws of this Nation, and entred upon the Roll, *Nullo contradicente. Rot. part* 51 *H.* 3. *n.* 8.

If the end of raising Arms be to overthrow any Statute, any part of the Law, and setled Government in Church or State, this is war against the King, and High Treason.

In that great Insurrection of the Villains and meaner people in King *Richard* the Second's time; they took an Oath, *Quod Regi & Communibus fidelitatem servarent*, to be true to the King and Commons, and that they would take nothing but what they paid for, punished all Theft with Death; here was no intendment against the person of the King; the intent was to establish the Laws of Villenage and Servitude: this in Parliament, 5 *R.* 2. is declared to be Treason against the King, 5 *R.* 2. *part* 1. *n.* 31, 32.

In the Eighth year of *Henry* the Eight, *William Bell*, and *Thomas Lacy* in the County of *Kent*, conspired with *Thomas Cheyney*, called the *Hermite of the Queen of Faires*, to overthrow the Laws and Customs of the Realm; and for the effecting of it, they with 200 more met together, and concluded upon a Course of raising greater Forces in the said County of *Kent*; this was adjudged Treason: It's the same offence by force of Arms to conspire to overthrow the Eccleſi-

Eccleſiaſtical Laws and Government of the Church.

Richard Bradſhaw, and *Robert Burton*, and others of *Oxford-ſhire*, conſpired and agreed to aſſemble themſelves with ſo many men as they could procure at *Enſlowhill* in that County, and there to riſe, and from thence to go from Gentlemans houſe to Gentlemans houſe, and to caſt down Incloſures as well for enlargement of High-ways, as of Errable Lands; and they agreed to get Armour and Artillary at the Lord *Norris*'s houſe, and to bear them in going from Gentlemans houſe to Gentlemans houſe for the end aforeſaid, and to that purpoſe perſwaded divers others; and all this was confeſſed by the Offenders, for which *Bradſhaw* and *Burton* were attainted of High Treaſon, *P.* 39 *Eliz.* by all the Judges of *England*.

If it be Treaſon to conſpire and agree to aſſemble to caſt down Incloſures, certainly it muſt be Treaſon to conſpire and conſult by power of Arms, without Royal Authority, to caſt down the Incloſures of the Church (which is *Hortus incluſus*) and fenced with ſo many excellent Laws to defend it againſt the Ravage of the Beaſts of *Epheſus*, and the Fury of unreaſonable men.

For Subjects to take up Arms to remove evil Counſellors from the King, it's High Treaſon, as it was adjudged in the Caſe of the Earl of *Eſſex*; what then is the Offence by force of Arms to remove the ſacred Oracles of the Church, and to pull down the Pillars of it?

So that it doth demonſtratively appear, that the ſole power of the Sword is in the King; for to ſuppoſe that another hath right to bear the Sword, beſides the Soveraign, is to ſuppoſe, that the Soveraign hath an equal, which is a Contradiction to the notion of Soveraignty, and that in the ſame Government there may be two Soveraign Powers.

3. In the next place we ſhall conſider whether this Doctrine of taking up Arms for Religion, or in defence of it, or to prevent any other from ſetling, or upon any other godly pretence, without Authority from the King, be warranted by the Judgment of the moſt Learned and Pious men in all Ages, That it's not lawful for Subjects, without Warrant from their King, to take up Arms for Religion,

or defence of it, or upon any other godly pretence whatsoever.

Tertullian in his *Apologeticks c.* 30, 33, 37. tells us, That the Ancient Christians in his time, although having an Heathen and persecuting Emperor, did honour him, as chosen of God, and second from God, and first after God; and did chuse rather to suffer, than to make resistance by force of Arms, although they lacked not number and strength to do it.

The like Example we have in that renowned *Thebæan* Legion of 6666 Christian Soldiers called *Agaunenses* from the place of their Suffering, who, without making resistance as they had strength to have done, suffered themselves rather to be slain for their Christian Profession, by the Officers of *Maximinian* the Emperor, Executors of his cruel Commandment against them. This fell out in the 18. year of *Diocletian*, as *Ado Viennensis* writeth in his Chronicle, which was in the year of God 297. as Cardinal *Baronius* reckoneth in his Annals; and of that pious and Christian Resolution *Venantius Fortunatus* an ancient Bishop of *Poictiers* hath left unto us a noble *Eulogium*, as you may see in *Bibliotheca Patr. Tom.* 8. *Edit.* 4. *fol.* 741.

Gregory Nazianzen in his first Oration, speaking of the Persecution by *Julian* the Apostate, where the Christians were more in number, and stronger in power to have made open Resistance, if they had in their Consciences found it agreeable to their Christian Profession, declareth plainly, that they had no other remedy against that Persecution, but patient Suffering for Christ, with gloriation in Christ.

St. *Ambrose* having received commandment to deliver the sacred Houses or Churches to be possessed by the *Arrians*, declared what he thought convenient to be done in such a case, to wit, neither to obey in that which he could not perform with a good Conscience, nor yet to resist by force of Arms. His words to the people (*Concione tertia contra* Auxentium) are these; *Quid ergo turbamini? volens nunquam vos deseram, coactus repugnare non novi: dolere potero, potero flere, potero gemere, adversus arma, milites, Gothosque lachrimæ meæ arma sunt, talia munimenta sunt Sacerdotis, aliter debeo, nec possum resistere:* Why then are ye troubled?

troubled? I ſhall never willingly leave you: If I be compelled, I cannot gainſtand; I may be ſorry, I may weep, I may ſigh, againſt Arms, Soldiers, the *Gothes* alſo, my Tears are Arms; for ſuch are the Guards of a Prieſt: otherwiſe I neither ought, nor may reſiſt. And in the ſecond Book of his Epiſtles, 14 *Epiſt.* to his Siſter *Marcellina*, ſpeaking to the ſame purpoſe, he ſaith, *Non ego me vallabo circumfuſione populorum, rogamus*, Auguſte, *non pugnamus* —*tradere* Baſilicam *non poſſum, ſed repugnare non debeo:* I ſhall not fortifie my ſelf with a multitude of people about me—We beſeech, O Emperor, we fight not —I may not deliver the Church, but I ought not to make reſiſtance.

Such alſo was the Doctrine and Practiſe of many other great Lights which ſhined in the days of *Julian* the Apoſtate, and in the days of the *Arrian* Emperors, and *Gothick Arrian* Kings.

St. *Auguſtine* writing of a lawful War, acknowledgeth that only to be lawful, which hath Authority from the Prince; *Intereſt enim quibus cauſis, quibuſque Authoribus homines gerenda bella ſuſcipiant, ordo tamen ille naturalis mortalium paci accommodatus hoc poſcit, ut ſuſcipiendi belli Authoritas atque Conſilium penes Principem ſit.* Aug. lib. 22. contra *Fauſtum*, c. 75. *For it's much to be regarded*, ſaith he, *for what Cauſes, and by whoſe Authority men undertake Wars, but that natural order which is accommodated to the peace of mortal men, require this, That the Authority and Counſel of undertaking War, be in the power of the Prince.*

Doctor *Bilſon* ſaith, *In making of War, the perſon muſt be reſpected as well as the Cauſe; be the Cauſe never ſo juſt, if the Perſon be not authorized by God to draw the Sword, they be not juſt or lawful Wars. Private men may not venture on Wars, unleſs they be directly warranted by him that hath the Warrant from God.* Dr. *Bilſon* in his Book entituled, *The true Difference betwixt Chriſtian Subjection, and Unchriſtian Rebellion*; Printed at *Oxford* 1585. *fol.* 380.

He ſheweth, that the Subjects of *England* have no lawful Authority or Warrant to draw the Sword without the conſent of the Prince, *fol.* 518.

Peter Martyr ſaith, That *it's certain, that wars may not be made without the Authority of the Prince.* Loc. Com. claſſ. 4. c. 16. §. 2.

Calvin, a perſon of no mean eſteem with you, in the 4th Book of his Inſtitutes, in the laſt Chapter of that Book, diſputeth the Queſtion at large, and by many ſtrong Arguments concludeth, That it's no ways Lawful for Subjects to reſiſt their Prince by force of Arms, whether the Prince be Godly and Juſt, or Ungodly and Unjuſt in his Converſation, and commands, that nothing remaineth to Subjects in ſuch a caſe, but to obey or ſuffer.

The ſame Doctrine alſo is delivered by *Hugo Grotius* in his firſt Book *de Jure Belli & Pacis*, *ch.* 4. *To. Gerherd* in the 6. *Tom.* of his *Common Places* in his Treatiſe *de Magiſtratu Politico n.* 483. where he diſcourſeth learnedly of this matter: *Albericus Gentilis* in his Regal Diſputations, Diſput. 3. *de Vi Civium in Regem ſemper injuſta*. *Jo.* Biſhop of *Rocheſter* in his Book written againſt *Bellarmine*, *de Poteſtate Papæ in rebus Temporalibus lib*: 1. *c* 8. *M. Antonius de Dominis*, in his Book called *Oſtenſio Errorum* Franciſci Suarez. c. 6. §. 27.

If the Authority of theſe perſons, who made ſo great Figures in the World for their Piety and Learning, cannot convince you of your Error, I know not what will.

But, Sir, I muſt tell you, let your Pretences be never ſo firm and religious, and that you act according to the Dictates of your Conſcience, to ſecure Religion againſt Papacy, and to reduce the Church of *England* to the primitive Purity, if you take up Arms to effect it, without Royal Authority, it's High Treaſon. Obedience to your Soveraign Prince and his Laws, is part of your Duty towards God: And Conſcience is not your Rule, but your Guide, and ſo far only can Conſcience juſtifie your Actions, as it is juſtifyed by God, and his ſacred Word. Subm ſſion to your Prince is your Duty, and confidence in his Goodneſs will be your Prudence. So I take my leave and reſt,

Sir,

Your Humble Servant,

Ap William d' Bretaine.

FINIS.

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